

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE NORTHERN DISTRICT OF ALABAMA,
NORTHEASTERN DIVISION

THE ALABAMA DEMOCRATIC
CONFERENCE, an Alabama political
action committee, et al.,

Plaintiffs,

v.

LUTHER STRANGE in his official
capacity as the Attorney General of
Alabama; et al.,

Defendants.

CIVIL ACTION NO.
5:11-cv-02449-JEO

**Plaintiffs' Reply to "Defendants' Response To Plaintiffs' Oral
Argument Exhibit" (Doc. 50)**

1. The purpose of Plaintiffs' Exhibit 1 (attached) was to show how few of the newspaper articles submitted by Defendants (Docs. 7-4 and 7-5) dealt with *quid pro quo* corruption. Plaintiffs will concede that Defendants have identified five instances in articles and editorials published over a period of more than 17 years that arguably suggest *quid pro quo* corruption.¹ However, most of the articles discussed by Defendants are off that point. Over four times as many articles (22) complain of "influence" or "access" of the sort that many editorialists -- but not the Supreme Court -- believe constitutes corruption. Twice as

¹ We believe that it is a fair statement that the editorials were not written with legal precision and are susceptible to differing interpretations.

many deal with distortion, and by far the largest number deal with difficulties in tracking contribution under the previous non-searchable reporting system (32) and the previous reporting deadlines (8) that have now been superseded.

2. In the group on pages 4-5, the quotes are about transparency, and the first item mentions PACs “circumvent[ing] some restrictions on how much money companies can give.” Doc. 7-4 at p. 6. There is no longer a restriction on “how much money companies can give.”

3. Defendants assert, “Third, the articles establish that the public could perceive PACs will coordinate their expenditures with candidates—and thereby effectively make candidate contributions—even if they do not directly deliver funds to a candidate (as the ADC says it will not do via its “independent expenditure” account).” It is unclear how this assertion supports the Defendants’ argument. First, Defendants have failed to identify any legal authority for limiting coordination of speech in the absence of contribution limits.² Second, the State has advised the Court that under the ban on PAC-to-PAC transfers, PACs can still coordinate contributions to candidates: for instance, where two or more PACs share the cost of office space or divide expenses, one PAC renting the cars, another paying for gasoline.

² Both *Citizens United* and *Republican Party of N.M.* (cited in Doc. 45 at 38) were decided against a backdrop of limits on the amounts individuals and businesses could give to candidates and PACs. See *Republican Party of New Mexico v. King*, 741 F.3d 1089, 1091 (10th Cir. 2013); *Citizens United v. FEC*, 558 U.S. 310, 319, 345, 359 (2010).

11-21-2011 Transcript at 26-27, 30-31. The State plainly told the Court, “Within the context of coordination, the sky is the limit.” *Id.* at 31. The State made a similar argument at the oral argument on 27 May 2014.

Submitted by,

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CERTIFICATE OF SERVICE

I certify that on 4 June 2014 I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following attorneys:

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